

ASSEMBLY BILL

No. 2206

Introduced by Assembly Member Gomez

February 20, 2014

An act to amend Section 6254.1 of, and to add Sections 27279.5 and 27279.7 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2206, as introduced, Gomez. Local government: public safety officials: confidentiality.

Existing law sets forth the duties and powers of the board of supervisors of a county and the county recorder and county assessor of each county. Existing law requires the county recorder to, upon payment of proper fees and taxes, accept for recordation any instrument, paper, or notice that is authorized or required by statute or court order to be recorded, as specified. Existing law allows any instrument or judgment affecting the title to, or possession of, real property to be recorded. Existing law requires a document that effects or evidences a transfer or encumbrance of an interest in real property to include the name or names in which the interest appears of record. Existing law requires the county recorder of each county to establish a social security truncation program for the redaction of social security numbers to create a public record version of official records.

This bill would authorize the board of supervisors of a county to establish a program that requires the names of certain public safety officials to be redacted from any property record of principal residence that is disclosed to the public by that county, except as specified. The bill would authorize a county to charge a fee for participation in the program. The bill would set forth requirements that would apply to the

sale of aggregate data. The bill would require a county that establishes a program pursuant to this act to also ensure that the property record of a public safety official is redacted, as defined, in a specified manner when a search is conducted by index by name of the public safety official.

Existing law, the California Public Records Act, requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure, and upon payment of fees covering direct costs of duplication.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to authorize the board of supervisors of any county to establish
3 a county program to redact the name of a public safety official
4 from a property record that contains the address of the principal
5 residence of the public safety official and as otherwise specified
6 when a search is conducted by index by name of the public safety
7 official. A public safety official is defined for purposes of this act
8 as an official who is currently or formerly employed by a public
9 agency responsible for law enforcement, the justice system, or
10 corrections.

11 SEC. 2. Section 6254.1 of the Government Code is amended
12 to read:

13 6254.1. (a) Except as provided in Section 6254.7, ~~nothing in~~
14 this chapter ~~requires~~ *shall not require* disclosure of records that
15 are the residence address of any person contained in the records
16 of the Department of Housing and Community Development, if
17 the person has requested confidentiality of that information, in
18 accordance with Section 18081 of the Health and Safety Code.

1 (b) ~~Nothing in this~~ This chapter ~~requires~~ shall not require the
2 disclosure of the residence or mailing address of any person in any
3 record of the Department of Motor Vehicles except in accordance
4 with Section 1808.21 of the Vehicle Code.

5 (c) ~~Nothing in this~~ This chapter ~~requires~~ shall not require the
6 disclosure of the results of a test undertaken pursuant to Section
7 12804.8 of the Vehicle Code.

8 (d) This chapter shall not require disclosure of the name of any
9 public safety official contained in any property record of a county
10 that is disclosed to the public, or as specified in subdivision (g) of
11 Section 27279.5, if the public safety official has requested
12 confidentiality of that information, in accordance with Section
13 27279.5, and the county maintains a program that redacts that
14 information from property records pursuant to Section 27279.5.

15 SEC. 3. Section 27279.5 is added to the Government Code, to
16 read:

17 27279.5. (a) The board of supervisors of a county may
18 establish a program that requires the name of a public safety official
19 to be redacted from any property record that is disclosed to the
20 public by that county, which shall also include redaction of the
21 property record pursuant to subdivision (g).

22 (b) Subdivision (a) shall apply only to a public safety official
23 described in Section 27279.7 who has requested that his or her
24 name be redacted from a property record that is disclosed to the
25 public by that county and pursuant to subdivision (g). The county
26 shall prepare and maintain a list specifying those job classifications
27 eligible to request redaction as public safety officials pursuant to
28 Section 27279.7. The county may prescribe the form or application
29 by which a request of confidentiality shall be submitted pursuant
30 to this subdivision.

31 (c) Notwithstanding subdivisions (a), (b), and (g), this section
32 shall not preclude a county from using or maintaining records
33 internally that include the name of a public safety official who has
34 requested redaction under the program.

35 (d) (1) The county may charge a fee for participation in the
36 program, provided the fee is reasonable and charged to cover only
37 the costs of the program.

38 (2) The county shall require an individual to show valid photo
39 identification and proof of employment eligibility as a precondition
40 of requesting redaction under the program.

1 (e) (1) A county that chooses to establish a program pursuant
2 to this section that sells aggregate data shall provide notice to the
3 person or entity that it sells data to that the names of program
4 participants shall remain confidential and not be posted on any
5 Internet Web site or solicited, sold, or traded.

6 (2) A public safety official whose name is made public as a
7 result of a violation of paragraph (1) may bring an action seeking
8 injunctive or declarative relief in any court of competent
9 jurisdiction. If a court finds that a violation has occurred, it may
10 grant injunctive or declarative relief and shall award the official
11 court costs and reasonable attorney's fees. A fine not exceeding
12 one thousand dollars (\$1,000) may be imposed for a violation of
13 the court's order for an injunction or declarative relief obtained
14 pursuant to this paragraph.

15 (3) A public safety official whose name is solicited, sold, or
16 traded in violation of paragraph (1) may bring an action in any
17 court of competent jurisdiction. If a jury or court finds that a
18 violation has occurred, it shall award damages to that public safety
19 official in an amount up to a maximum of three times the actual
20 damages but in no case less than four thousand dollars (\$4,000).

21 (4) A county shall not be held civilly liable for a violation of
22 paragraph (1) if the county provided proper notice pursuant to
23 paragraph (1) to the person or entity that it sold data to that the
24 name of the public safety official remain confidential.

25 (f) Notwithstanding any other provision of this section, the
26 following shall apply:

27 (1) A county that exercises reasonable care shall not be held
28 civilly liable for the unintentional disclosure of the name of a public
29 safety official.

30 (2) For purposes of this section, a county shall have exercised
31 reasonable care if it redacts those documents identified by
32 conducting an electronic or index search of records based upon
33 the name of the public safety official.

34 (g) A county that establishes a program pursuant to this section
35 shall also ensure that the property record of a public safety official
36 is redacted when a search is conducted by index by name of the
37 public safety official.

38 (h) A county board of supervisors that chooses to establish a
39 program pursuant to this section shall have discretion in designing
40 a process to implement the program, provided that the process is

1 not in conflict with any specific requirement imposed under this
2 section.

3 (i) For purposes of this section and Section 27279.7, the
4 following definitions shall have the following meanings:

5 (1) "Post" means to intentionally communicate or otherwise
6 make available to the general public.

7 (2) "Principal residence" means the residence that qualifies for
8 a homeowners' property tax exemption.

9 (3) "Property record" means a property record that contains the
10 address of principal residence of the public safety official.

11 (4) "Public safety official" means a person listed in Section
12 27279.7 who is eligible for, or participates in, the program.

13 (5) "Redacted" or "redaction" also includes redaction of the
14 address of principal residence and legal description of the property
15 from a property record of a public safety official when a search is
16 conducted by index by name of the public safety official.

17 SEC. 4. Section 27279.7 is added to the Government Code, to
18 read:

19 27279.7. (a) The name of any of the following public safety
20 officials, whether current or former, shall be redacted from a
21 property record pursuant to Section 27279.5 if the public safety
22 official requests the confidentiality of that information:

23 (1) An employee of a federal, state, or local law enforcement
24 agency, not under suspension or otherwise lacking in good
25 standing, except an employee whose principal duties are clerical
26 or who is not engaged in law enforcement operations.

27 (2) A judge, federal magistrate, court commissioner, or referee
28 who has statutory authority to preside in criminal proceedings.

29 (3) An attorney of a federal, state, or local prosecutorial or
30 defense agency who represents that office in criminal matters.

31 (4) An employee of a federal, state, or local prosecutorial or
32 defense agency whose responsibilities routinely place that
33 employee in personal contact with persons under investigation for,
34 charged with, or convicted of, committing criminal acts.

35 (5) An employee of a federal, state, or local agency who
36 supervises inmates or is required to have a prisoner in his or her
37 care or custody, or a probation officer or parole agent.

38 (b) (1) Notwithstanding subdivision (a), Section 27279.5 and
39 this section shall not apply to an elected official in an elected office,
40 or to a person who has been appointed on a temporary basis to fill

1 a vacancy in an elected office, when that elected office is the
2 attorney general, district attorney, sheriff, public defender, or city
3 attorney or prosecutor.

4 (2) Notwithstanding subdivision (a), a public safety official who
5 becomes an elected official shall not be eligible for redaction under
6 the program.

7 (c) The name or property record of a public safety official listed
8 in subdivision (a) shall not be disclosed pursuant to Section
9 27279.5, except to any of the following:

10 (1) A court.

11 (2) A law enforcement agency.

12 (3) The State Board of Equalization.

13 (4) An attorney in a civil or criminal action that demonstrates
14 to a court the need for the name, if the disclosure is made pursuant
15 to a subpoena.

16 (5) A governmental agency to which, under any law, information
17 is required to be furnished from records maintained by the county.

18 (6) To any person, upon request of the public safety official.

19 SEC. 5. The Legislature finds and declares that this act imposes
20 a limitation on the public's right of access to the meetings of public
21 bodies or the writings of public officials and agencies within the
22 meaning of Section 3 of Article I of the California Constitution.
23 Pursuant to that constitutional provision, the Legislature makes
24 the following findings to demonstrate the interest protected by this
25 limitation and the need for protecting that interest:

26 In order to prevent crimes against public safety officials and
27 their families, it is necessary that this act take effect.